

General Definitions Storage YARDS

Exhibit
1A

STANDARD SPECIFICATIONS:

The specifications as specified in this title or as officially adopted by the county.

STORAGE YARD:

The keeping of junk material, merchandise or vehicles in the same location for an extended period of time.

STREET:

A public street of not less than 50 feet in width with a 24 foot wide road surface that may or may not have been dedicated or deeded to the public for public use. Within the county, street designations apply within subdivisions and classifications shall not be classified as a road under the definition of this or any other ordinance of the county. Street classifications are as follows:

Cul-de-Sac: A minor street with a turnaround space at its terminus.

Frontage Street: A collector street, parallel to and adjacent to, a county road that provides access to abutting properties and shall have a designated right of way of 50 feet.

Loop: A minor or collector street with both terminal points on the same street or road of origin. The minimum right of way shall be determined by the classification of the street.

Minor Street: A street that carries traffic to a collector street or road system and shall have a designated right of way width of 50 feet.

Partial Street: A dedicated right of way providing only a portion of the required street width.

Private Street: A street that serves a single (1) residence or owner that has not been dedicated or deeded to the public, however, it may be open for public use. These streets are not maintained by any public entity, but shall have a minimum right of way of 30 feet with 20 feet of drivable surface; more right of way may be required depending on the use and location.

STATE:

The State of Idaho.

STORAGE YARD:

The keeping of junk material, merchandise or vehicles in the same location for an extended period of time.

REMOVE BOTH
STORAGE YARD
DEFINITIONS
FROM SECTION
8-2-1

MOVE TO 8-4-2

- General Definitions - Junk

Exhibit 1B

~~Songbirds and Raptors: Forested riparian habitat, and mountain shrublands~~

~~Trout: Cutthroat Trout, Rainbow Trout and perennial and seasonal surface water (excluding ditches and irrigation water delivery systems)~~

~~Water Birds: Sandhill Crane, Trumpeter Swan, and Palustrine emergent wetlands~~

INDIRECT IMPACT:

~~Those adverse effects caused by the proposed action and occurring later in time or farther removed in distance, but still reasonably foreseeable. Indirect impacts may include effects related to changes in pattern of land use, human presence and population density, and related effects on natural systems and ecosystems.~~

JUNK:

~~Old or scrap metal, rope, rags, batteries, paper trash, rubber, debris, waste, dismantled or wrecked vehicles and automobiles or parts thereof, iron steel and other old or scrap ferrous and nonferrous material.~~

**REMOVE OLD
JUNK
DEFINITION
AND REPLACE
WITH THIS:**

JUNK means old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. Any of the above items used in a bona fide agricultural operation are excluded from this definition

KITCHEN FACILITIES:

~~A permanently installed means for cooking, such as a range or cook-top, OR a permanently installed kitchen sink with the capacity to wash dishes. (amd 2011-05-12)~~

LANDSCAPE MATERIAL:

~~Any combination of living plants and non-living materials, such as rock, pebbles, sand, mulch, pavers, berms, walls, and other decorative materials.~~

LANDSCAPING:

~~The planting and arranging of landscape materials to enhance the aesthetic and functional qualities of a site.~~

LOT AREA:

~~The area of any lots shall be determined exclusive of street, highway, road or other rights of way.~~

LOT/PLOT:

~~A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon.~~

RESEARCH FACILITY:	Laboratories, building complexes, and structures that are for research, development, and testing that do not involve the mass manufacture, fabrication, processing or sale of products. Such uses shall conform to state and federal air and water regulations.
RESTAURANT:	An establishment primarily engaged in preparation of meals for compensation, with kitchen facilities for the preparation of the food sold, where alcoholic beverages may or may not be sold in conjunction with meals only, provided that at least 70% or more of the gross income generated at the restaurant is related to food sales, and including among others, such uses as café, cafeteria, coffee shop, lunchroom, tearoom, dining room, food delivery, and food take-out.
RIDING ACADEMY:	An establishment where horses are boarded and cared for, and where instruction in riding, jumping and showing is offered.
RIDING/TRAINING STABLE:	An operation where horses may be stabled for the public for a fee. The owner/operator may provide training for a fee for stabled horses and the owners thereof or the stabled horse owner agent.
ROADSIDE STAND, AGRICULTURAL PRODUCTS:	A temporary structure erected for the display of grown or produced agricultural products, generally on the same premises where produced, with no space for customers within the structure itself.

SALVAGE YARD:	Any location where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including scrap metal, other scrap material or for the dismantling, demolition appliances, papers, rags, tires, and bottles, etc., or any parts thereof.
---------------	---

SEWAGE TREATMENT FACILITY:	A facility for the collection, treatment and disposal of human waste and wastewater for a given service area.
----------------------------	---

SEXUALLY ORIENTED BUSINESS:	An adult arcade, adult products retail store, adult cabaret, adult live entertainment facility, adult motel, adult motion picture theater, adult theater, escort agency, or sexual encounter center.
-----------------------------	--

SHEET METAL FABRICATION:	An establishment engaged primarily in the on-site production of sheet metal fabrication, roofing products and signs within an enclosed structure.
--------------------------	---

STORAGE FACILITY:	A building or premises in which goods, merchandise or equipment are stored for eventual distribution.
-------------------	---

STORAGE UNITS:	A structure containing separate individual and private storage spaces of varying sizes, owned leased/rented on individual leases for varying periods of time. The following uses are prohibited: residential, commercial, wholesale or retail sales, or garage sales; the servicing,
----------------	--

ADD

STORAGE YARD

— SEE REVISED DEFINITION IN STAFF REPORT

Definitions for Junk, Junkyard from APA Planner's Dictionary

Exhibit
3
P. 1

Junk Scrap or waste material of whatsoever kind or nature collected or accumulated for resale, disposal, or storage. (*Homestead, Fla.*)

Worn-out, cast-off, or discarded articles or materials that have been collected or stored for salvage, destruction, or conversion to some use, but not including articles or material that, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new. (*Quincy, Mass.*)

Any scrap, waste, worn out, discarded material or debris collected or stored for destruction, disposal or some other use. (*Clarkdale, Ariz.*)

Any worn out or discarded materials including but not necessarily limited to scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris. (*Rockford, Mich.*)

Scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead, or other base metals; scraps of woolens, clips, bagging, rubber, and glass, and empty bottles of different kinds and sizes when the number of each kind or size is less than one gross; wrecked, or dilapidated motor vehicles, engines, [and] machinery stored or held; and all articles and things discarded or no longer used as a manufactured article composed of or consisting of any one or more of the materials or articles herein mentioned. (*Charleston, Ill.*)

■ **junk dealer** Any person who buys, exchanges, collects, receives, stores, or sells any article defined as junk or salvage. (*Columbus, Ohio*)

■ **\$junk storage** (*See also waste, bulk; white goods*) The temporary or permanent storage outdoors of junk, waste, discarded, salvaged, or used materials or inoperable vehicles or vehicle parts. This definition shall include but not be limited to the storage of used lumber, scrap, metal, tires, household garbage, furniture, and inoperable machinery, and as further defined in the current edition of the Uniform Fire Code. This definition shall not include outdoor storage of normal residential equipment and related activities such as garden tools, lawn mowers, wood piles, grass clippings, and similar items. (*Concrete, Wash.*)

■ **junkyard** (*See also salvage yard*) Any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing, or disposal of junk. (*Clarkdale, Ariz.*)

A lot, land, or structure, or part thereof, used for the collection, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage, salvaging, or sale of parts or machinery or vehicles not in running condition. (*Concrete, Wash.*)

A tract of land, including any accessory structure thereon, that is used for buying, selling, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition, and metals, glass, paper, plastics, rags, and rubber tires. A lot on which three or more inoperable vehicles are stored shall be deemed a junkyard. A junkyard includes an automobile wrecking yard. (*Wood River, Ill.*)

Any space more than 200 square feet in area, whether inside or outside a building, used for storage, keeping, processing, salvaging, or abandonment of junk. (*Merrimack, N.H.*)

A building structure, or parcel of land, or portion thereof, used for collecting, storage, or sale of waste paper, rags, scrap metal, rubber tires, bottles, or discarded material. Where such materials are a Byproduct of a permitted use, such activity shall be considered outdoor storage. (*Jefferson County, Colo.*)

■ **junkyard, commercial** Any junkyard which is operated for profit, whether said profit is derived from the storage, reconditioning, conversion, or sale of junk, or otherwise. (*Merrimack, N.H.*)

Any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles that are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two or more motor vehicles. Such terms shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn materials that are parts of a motor vehicle or cut up the parts thereof. (*Hartford, Conn.*)

■

Vt. MODEL JUNK ORDINANCE

EXHIBIT TIT

REGULATING OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

WHEREAS, the town (*village/city*) of _____ has, by authority granted in 24 V.S.A. §§ 1971 et seq., 2246 and 2291, the powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate outdoor storage of junk and junk motor vehicles within its boundaries;

NOW, THEREFORE, to protect the public health, safety and well being, and to promote the responsible use of resources and protection of the environment, the selectboard (*trustees/council*) of the town (*village/city*) of _____ hereby adopts this ordinance to regulate outdoor storage of junk and junk motor vehicles.

ARTICLE I. Definitions.

- a. "Abandon" means to leave without claimed ownership for 30 days or more.
- b. "Abutting property owner" means any person or persons, corporation or other entity that owns, leases, or in any other way uses or controls the real property abutting any portion of the property of another.
- c. "Enforcement Officer" means any [*constable, police officer, health officer etc.*] appointed by the selectboard (*trustees/council*) to enforce the provisions of this ordinance.
- d. "Highway" means any highway, road, street or other public way, regardless of classification.
- e. "Household appliance" means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.
- f. "Junk" means old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. **Any of the above items used in a bona fide agricultural operation are excluded from this definition.**
- g. "Junkyard" means any place of outdoor storage or deposit that is maintained, **operated or used in connection with a business for storing**, keeping, processing, buying or selling junk or as a scrap metal processing facility. "Junkyard" also means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for the storing or keeping of [four] (*optional, could be fewer, but not greater*) or more junk motor vehicles which are visible from any portion of a public highway. However, the **term does not include** a private garbage dump or a sanitary landfill that is in compliance with 24 V.S.A. §§ 2201 et seq. and any applicable state regulations. **It does not mean a garage** where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- h. "Junk motor vehicle" means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, an unregistered motor home not connected to water and/or sewer, or

a vehicle other than an on-premise utility vehicle which is allowed to remain unregistered for a period of 90 days from the date of discovery.

- i. "Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including trailers. Functional vehicles and equipment used for agricultural and construction operations are excluded from this definition.
- j. "Traveled way" means that portion of a public highway designed for the movement of a motor vehicle, shoulders, and roadside parking, rest, observation areas, and other areas immediately adjacent and contiguous to the traveled portion of the roadway.

ARTICLE 2. Requirements.


- a. It shall be unlawful to place, discard or abandon junk or [four] (*optional, could be fewer*) or more junk motor vehicles in a place where any such item is visible from the traveled way of a highway or town road, or visible to an abutting landowner from that portion of the abutter's land used on a regular basis. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance. 
 - b. It shall be unlawful to place, discard or abandon junk or [four] (*optional, could be fewer*) or more junk motor vehicles upon the land of another with or without the consent of the owner, when any such item is visible from the traveled way of a highway or town road, or visible to an abutting landowner from that portion of the abutter's land used on a regular basis. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance.
 - c. A person who wishes to operate a junkyard within the town (*village/city*) of _____ is required to:
 - obtain a certificate of approval for the location of the junkyard, and
 - obtain a license to operate, establish or maintain a junkyard from the State of Vermont.
1. **Certificate of Approved Location.** Application for a certificate of approved location shall be made in writing to the selectboard (*trustees/council*) of the town (*village/city*) of _____. The application shall contain a description of the land to be included within the junkyard, which description shall be by reference to so-called permanent boundary markers. The procedures to be followed after an application has been made are those specified in 24 V.S.A. §§ 2252-2256, as from time to time amended. NOTE: Additional wording for municipalities having a zoning ordinance and a zoning board of adjustment or development review board established under 24 V.S.A. Chapter 117: "*The application shall be accompanied by a certificate from the ZBA or DRB that the proposed location is not within an established district restricted against such uses or otherwise contrary to such zoning ordinance.*"
 2. **State Junkyard License.** The procedures for obtaining a junkyard license from the State of Vermont are those specified in 24 V.S.A. §§ 2261-2264, as from time to time amended.

Exhibit 4-A
→ seems like good screening requirements

- d. All junkyards, scrap yards, and places of outdoor storage of junk shall be effectively screened from public view by a fence or vegetation at least eight feet in height. Any fence shall be of sound construction and of solid vertical board or 'stockade' type construction, and shall be maintained neatly and in good repair. Such a fence shall not be used for advertising signs or other displays which are visible from the traveled way of a highway. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view. Failure to provide screening as required herein shall be considered a violation of this ordinance.

ARTICLE 3. Enforcement and Penalties.

- a. Upon receiving written notice from the selectboard (*trustees/council*) to do so, the owner of any junk or junk motor vehicle discovered in violation of Article 2 of this ordinance shall remove or screen the item(s) or vehicle(s) from the view of the traveled way of the highway or town road. Such items shall also be screened from the view of an abutting landowner as seen from that portion of the abutter's land used on a regular basis. If the owner of the junk or junk motor vehicle(s) does not remove or screen the items from view within 30 days from the date of mailing of the written notice by the selectboard (*trustees/council*), the selectboard (*trustees/ council*) may notify the appropriate state agency.

b. Additional Provisions for Junk Motor Vehicles.

1. If the owner of the land on which a junk motor vehicle is discovered in violation of Article 2 of this ordinance does not hold title or disclaims title to the vehicle, and the true owner of the vehicle is known or can be ascertained, the true owner shall move, screen or dispose of the vehicle upon receiving written notice from the selectboard (*trustees/council*).
2. If the last known registered owner fails or refuses to reclaim the vehicle upon receiving said written notice, or if after an investigation the owner of the vehicle cannot be ascertained, the selectboard (*trustees/council*) may notify the appropriate state agency.
3. Further procedures by the state agency are specified in 24 V.S.A. § 2272.

- c. A violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the _____ County Superior Court, at the election of the legislative body.

1. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than \$_____ per violation (*note: may be up to \$500 per violation*) may be imposed for violation of this ordinance.

A. A municipal ticket will be issued 30 (*optional, could be fewer*) days after written notification of violation is mailed by the selectboard if the violation has not been corrected in accordance with this ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.

B. For purposes of enforcement in the Judicial Bureau, the town (*village/city*) [*constable, police officer, health officer, municipal attorney, other*] shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

2. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The legislative body may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$_____ per violation may be imposed for violation of this ordinance. A civil action may be initiated within [30 days] after written notification of violation is mailed by the selectboard if the violation has not been corrected in accordance with this ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.

ARTICLE 4. Severability. If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

ARTICLE 5. Effective Date. This ordinance shall become effective 60 days after its adoption by the town (*village/city*) selectboard (*trustees/council*). If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

	Date
Signatures	

ADOPTION HISTORY:

1. Agenda item at regular Selectboard meeting held on _____.
2. Read and approved at regular Selectboard meeting on _____ and entered in the minutes of that meeting which were approved on _____.
3. Posted in public places on _____.
4. Notice of adoption published in the _____ newspaper on _____ with a notice of the right to petition.
5. Other actions [petitions, etc.]

Model Junkyard Ordinance

Lydia Doyle
Fall 2007

SEE
outlined
text
in particular

Overview of Junkyard Regulations

Regulations surrounding junkyards are not new. In fact, they have been in existence since the early 20th century.⁶ Junkyard ordinances have included provisions such as total exclusion from a city, setback requirements, restriction to particular areas and screening requirements.⁷ Junkyard ordinances were originally written with health and safety in mind.⁸ However, spurred in part by the Federal-Aid Highway Act, these regulations came to be driven by aesthetic considerations as well.⁹

Introduction

Every community needs access to a junkyard. Junkyards buy and recycle junk, notably cars, but they may also accept other appliances or mechanical equipment.¹ Junkyards buy cars, and/or other vehicles and appliances, which are damaged or malfunctioning beyond repair. They sell the usable parts to consumers and the remaining scrap metal to metal recycling companies.² Junkyards are a legitimate business interest and are not necessarily nuisances under the law per se.³

However, although junkyards provide a necessary service they are not always welcomed by neighbors, especially when they are close to homes, schools, churches or offices.⁴ Junkyards can create nuisances such as noise and vibrations.⁵

This paper is designed to provide an overview of junkyard regulation in Georgia as it currently exists on the federal, state and local level. Following this summary of junkyard regulation is a model junkyard ordinance to be used by communities in Georgia as guidance or the basis for their junkyard ordinances.

While junkyard regulations and their interpretation and validity vary from state to state there are some general principles that have been almost universally upheld. First, regulation of junkyards is a proper exercise of a state government's police power.¹⁰ Second, requirements that a junk dealer be licensed are valid unless administrative authorities have unlimited discretion to grant or deny the license and such authorities have abused that discretion in the past.¹¹ Licensing requirements have also been held invalid if the law requires the person seeking the license to get permission from neighboring landowners or if the specific licensing provision is found to be "prohibitory or discriminatory in [its] operation."¹² Third, fee provisions are generally upheld unless they are found to be unreasonable in that they exceed actual administrative costs.¹³ Finally, regulations requiring

6 Jesse Dukeminier, *Zoning for Aesthetic Objectives: A Reappraisal*, 20 Law & Contemp. Prob. 218, 235 (1955) as cited in Matthew Bender & Co., Inc., *Zoning and Land Use Controls* §16.06(3)(c) (2007).

7 *Donovan v. Board of Zoning Appeals of Rockingham County*, 467 S.E.2d 808 (Va. 1996) as cited in Matthew Bender & Co., Inc., *Zoning and Land Use Controls* §16.06(3)(c) (2007). See also *Cox v. Township of New Sewickley*, 284 A.2d 829 (Pa. 1971) and *Delmar v. Planning and Zoning Bd. of the Town of Milford*, 109 A.2d 604 (Conn. 1954) as cited in Matthew Bender & Co., Inc., *Zoning and Land Use Controls* §16.06(3)(c) (2007).

8 Jesse Dukeminier, *supra* note 6.

9 *Id.*

10 R.D. Hursh, *Regulation of Junk Dealers*, 45 A.L.R.2d 1391 (2007).

11 *Id.*

12 *Id.*

13 *Id.*

1 Wikipedia, *Wrecking Yard* (Oct. 8, 2007), http://en.wikipedia.org/wiki/Wrecking_yard.

2 *Id.*

3 *Jasper v. Commonwealth*, 375 S.W.2d 709, 710-711 (1964).

4 Interview with Faye Bush, President, Newtown Florist Club in Gainesville, Ga. (Oct. 11, 2007).

5 *Id.*

junkyard dealers to keep records and make reports of items bought by the junkyard have been upheld as a valid exercise of the police power.¹⁴

Regulation of junkyards is primarily a matter of state or local concern with the important exception of the Federal-Aid Highway Act.¹⁵ The Act was passed in 1965 and provides that the

establishment, use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.¹⁶

The Act prohibits junkyards within 1,000 feet of the nearest edge of the right-of-way.¹⁷ The law also requires that junkyards be screened so they are not visible from the public right-of-way.¹⁸ These screens may be constructed using natural material, vegetation or fencing.¹⁹ The Act provides that states will have their funding for Federal-aid highways reduced every year that the those states are out of compliance with this Act.²⁰

In the Junkyard Control Act, the State of Georgia codified at the state level the federal law prohibiting junkyards within 1000 feet of a federal highway.²¹ Any junkyard must be screened from the federal highway if it would otherwise be visible from the thoroughfare.²² The Act further provides that any junkyard that came into existence after 1967 that cannot conform to the act will be considered a public nuisance that may be removed at the owner's expense.²³

There has been little guidance from the Georgia courts or legislature concerning junkyard control. The Georgia Constitution gives local governments

broad authority to enact zoning regulations or to exclude uses from particular districts altogether.²⁴ Courts have held that junkyards may be the subject of zoning regulations as part of the traditional police power functions.²⁵

The case of *Shurman v. Atlanta* is an early case from the Georgia Supreme Court that addresses issues surrounding junkyard ordinances.²⁶ This case originated when people were robbing abandoned houses in Atlanta, stealing fixtures, hardware, plumbing, electric and gas fixtures and other articles in the house and selling them to junk dealers.²⁷ To solve this problem, the City of Atlanta enacted a junkyard ordinance to regulate junkyards and the purchase of junk.²⁸

The *Shurman* court held that regulating junkyards is a valid exercise of the police power.²⁹ The court said that a provision that required junk dealers to determine whether the people selling the junk to the junk dealers had a legal right to do so was not arbitrary.³⁰ The court also held that naming junk dealers as a unique class does not constitute a violation of the equal protection and due process clauses because of the concern that junkyards may provide a market for a certain type of stolen goods.³¹

Shurman was relied on in the case of *Rockdale County v. Mitchell's Used Auto Parts, Inc.*³² In this case the court upheld the idea that the regulation of junkyards is a permissible exercise of a local government's police power.³³ However, the court emphasized that the Constitution requires that the provisions of the ordinance "not be unreasonable, arbitrary or capricious, and that the means adopted have some real and substantial relation to the object to be

¹⁴ *Id.*

¹⁵ 23 U.S.C.S. §136 (2007).

¹⁶ 23 U.S.C.S. §136(a) (2007).

¹⁷ 23 U.S.C.S. §136(b) (2007).

¹⁸ 23 U.S.C.S. §136(c) (2007).

¹⁹ *Id.*

²⁰ *Id.*

²¹ O.C.G.A. §32-6-242 (2007).

²² *Id.*

²³ O.C.G.A. §32-6-244(b) (1967).

²⁴ Ga. Const. Art. IX, §II, Para. IV (2007).

²⁵ *Rockdale County v. Mitchell's Used Auto Parts, Inc.*, 243 Ga. 465 (1979).

²⁶ 148 Ga. 1 (1918).

²⁷ *Id.* at 10.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 12.

³¹ *Id.*

³² 243 Ga. 465 (1979).

³³ *Id.*

attained.³⁴ The court noted that while there was no Georgia case on point, other jurisdictions have upheld similar fencing and screening requirements to those in *Rockdale*. The case did not specify those fencing and screening requirements.³⁵

In *Lithonia Asphalt Co. v. Hall County Planning Commission* the Georgia Supreme Court held that Hall County's heavy industrial zoning ordinance was invalid.³⁶ The *Lithonia Asphalt* case provides guidance in the case of junkyards because, while the case actually dealt with construction of an asphalt plant, the invalidated ordinance provision specifically included junkyards.³⁷ The provision of the ordinance at issue, §15(A)(3), stated:

Uses permitted inherently...Any industrial use provided that the use, such as a poultry processing plant, junk yard, chemical plant, cement plant, oil storage facility or foundry, which may cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, fire hazard, or other objectionable conditions shall require a finding by the Planning Commission that the proposed location, construction, and operation will not injure unduly the surrounding developments or the community either present or future.³⁸

The court held that §15(A)(3) of the ordinance was invalid because it was overly vague and did not contain sufficient objective standards and guidelines to meet the requirements of due process.³⁹

Zoning regulations in general, and junkyard ordinances in particular, have long been the subject of debate and litigation. Modern rules, particularly in Georgia, grant local governments broad authority to enact land use regulations. So long as the ordinance is a valid exercise of the police powers and is reasonable rather than arbitrary and capricious, there is a good chance that the regulation will be upheld in a Georgia court.

³⁴ *Id.*

³⁵ *Id.*

³⁶ 258 Ga. 8 (1988).

³⁷ *Id.* at 9.

³⁸ *Id.*

³⁹ *Id.*

Using the Model Junkyard Ordinance

This model junkyard ordinance is designed to provide guidance to local governments in the creation of their junkyard regulation. The model could be adopted in whole or in part by a local government as its junkyard ordinance. It draws some of its provisions from existing junkyard ordinances in Polk County, North Carolina; Union County, Georgia; and Lee County, Georgia. The provisions from these ordinances were chosen because they are clear and effectively balance public and private interests.

The blanks in the ordinance are present because each local government has different names for their zoning authority or the body that will review junkyard plans and address the concerns set forth in the ordinance. These blanks should be filled by each local government to reflect the commission or authority charged with each enumerated task.

The numbers set forth in the model ordinance regarding setbacks, buffers, fencing height, etc. are designed to strike a balance between protecting the health, safety and welfare of the public and the property rights of junkyard owners and their right to operate a legitimate and legal business. These numbers may be modified based on the specific concerns or conditions in a particular locality, but this balance between public and private interests should be maintained.

Junkyards should be set back from particular uses, such as residences, because proximity of a junkyard to these uses would particularly impact the public health, safety or welfare. The vegetation and fencing requirements along with the required setbacks are designed to shield junkyards from the public's view. These setback and screening requirements are designed to protect the public investment in public roadways⁴⁰ as well as protect property values of neighboring landowners. The vegetation surrounding the junkyard is intended to not only screen the junkyard from public roadways and neighboring properties, but to also improve the overall aesthetics of the site and the area.

⁴⁰ U.S.C.S. §136(a) (2007).

New junkyards are required to obtain a permit under the model ordinance while existing junkyards must register within 90 days of enactment of the model ordinance. Existing junkyards are required to register under the model ordinance so that the local government will have a record of the junkyards in existence at the time the ordinance was enacted. These records will help in case one of these junkyards later decides to undergo an expansion or substantial modification. Because the model ordinance requires existing junkyards that undergo an expansion or substantial modification to comply with the ordinance's screening and setback requirements, it will help the local government to have a record as to the size and operations of the facility at the time the ordinance was enacted.

The model ordinance calls for a permit application fee. This fee should be determined based on the actual amount necessary to administer and enforce the permitting scheme.⁴¹ The U.S. Supreme Court

has upheld fees intended to reimburse the permitting authority for the costs of administering the permitting scheme so long as the fee is not a revenue measure.⁴² In Georgia, the rule is that no local government can use regulatory fees to raise revenue for general purposes.⁴³ The amount of the regulatory fee must approximate the reasonable cost of the local government in carrying out the regulatory activity.⁴⁴ Therefore, the permit fee called for in the model ordinance should be set by the government enacting that provision to reflect the actual cost of administering the permit scheme in that locality.

The model ordinance also includes a provision for civil penalties. This is a fine against the junkyard for every day that it is in noncompliance with the ordinance. The amount of the civil penalty is left blank but should be filled in by the local government with a figure that is consistent with the penalty provisions in the local government's other ordinances.

⁴¹ *I.D.K., Inc. v. Ferdinand*, 277 Ga. 548, 551 (2004).

⁴² *Cox v. New Hampshire*, 312 U.S. 569, 576-577 (1941).

⁴³ O.C.G.A. §48-13-9(a) (2007).

⁴⁴ *Id.*

Model Junkyard Ordinance

Section 1 - Purpose

To promote the public health, safety and welfare; to protect and preserve the scenic and natural beauty of the area; to preserve property values and protect the integrity of the community; and to protect the public from health nuisances and safety hazards.⁴⁵

Section 2 - Applicability

1. This ordinance applies to all junkyards created, expanded or substantially modified after the date this ordinance is enacted. Junkyards that exist as of the date this ordinance is enacted are grandfathered as prior nonconforming uses so long as pre-existing junkyards register with _____ [office charged with granting permits] within ninety (90) days of enactment of this ordinance.
2. Bona fide service stations, garages and recycling centers using enclosed structures or solid waste containers shall be exempted from this ordinance.⁴⁶

Section 3 - Authority

The _____ [local authority enacting the ordinance] enacts this ordinance under Georgia Constitution Article IX, Section 2, Paragraphs I-II which grant the governing authority of each county and municipality the power to adopt ordinances designed to promote the public health, safety and general welfare of its citizenry.⁴⁷

Section 4 - Definitions

The following words, terms and phrases shall have the meaning ascribed to them in this section.

Abandoned motor vehicle: a motor vehicle that 1) is physically inoperable, or missing essential parts to be operable, and has been stored on public property for more than 48 hours; 2) lacks a current license plate and is not stored within a completely enclosed structure or is not currently for sale and stored at a facility licensed for such sales.⁴⁸

Expansion: an increase in the size or scope of the junkyard. An expansion includes, but is not limited to, an increase in the total amount of space devoted to use by the junkyard, the placement and/or use of additional machinery or an addition of services offered onsite.⁴⁹

Garage: any establishment or place of business which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles.

Junk: any motor vehicle, appliance, scrap material or other item that is in a condition which prevents its use for the purpose for which it was originally manufactured.⁵⁰

Junkyard: any lot, land, parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage or disposal of junk.⁵¹

⁴⁵ Polk County, N.C., Junkyard Ordinance §1-1 (2006).

⁴⁶ *Id.* §1-4.

⁴⁷ Lee County, Ga., §38-2 (2007).

⁴⁸ Harvey S. Moskowitz & Carl G. Lindbloom, *The Latest Illustrated Book of Development Definitions* 251 (2004).

⁴⁹ Michael B. Brough, *A Unified Development Ordinance* 65 (1985).

⁵⁰ Lee County, Ga., *supra* note 51 §70-6.

⁵¹ Harvey S. Moskowitz, *supra* note 52, 214.

Nuisance: Anything within the county or municipality or its police jurisdiction that works hurt, inconvenience or damage to others or tends to the immediate annoyance of the citizens or is manifestly injurious to the public health or safety.⁵²

Public road: any road maintained or funded by the federal, state or local government.

Recycling center: a temporary or permanent site at which glass, aluminum cans, paper, plastic, clothes or similar materials commonly collected for recycling are collected and moved offsite or kept onsite in buildings, storage bins, solid waste containers, truck trailers or other storage facilities.⁵³

Residence: a house, an apartment, a group of homes, or a single room occupied or intended for occupancy as separate living quarters for one or more humans.⁵⁴

School: any building or part thereof that is designed, constructed, or used for education or instruction in any branch of knowledge.⁵⁵

Screen: a method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.⁵⁶

Service station: any establishment which is maintained and operated for the purpose of making retail sales of fuels, lubricants, air, water and other items for the operation and routine maintenance of motor vehicles, and/or for making mechanical repairs and/or servicing of motor vehicles.

Setback: the shortest straight line distance between a street right-of-way or lot line and the nearest point of a structure or building or projection therefrom.⁵⁷

Substantial modification: a material change or alteration to the site or operations of the junkyard. A substantial modification includes, but is not limited to, a change in the layout of structures, machinery and junk on the site; a change in the volume, intensity or frequency of use of the property; or a change in the operations taking place on the site.⁵⁸

Vegetation: evergreen vegetation.⁵⁹

Visible: capable of being seen by a person of normal acuity.⁶⁰

52 Lee County, Ga., *supra* note 51 §34-31.

53 Polk County, N.C., *supra* note 49 §1-3.

54 *Id.* §1-3.

55 Harvey S. Moskowitz, *supra* note 52, 340.

56 *Id.*

57 Gainesville, Ga., Code, §9-2-2 (2005).

58 Michael B. Brough, *supra* note 53, 66.

59 Harvey S. Moskowitz, *supra* note 52, 340.

60 Union County, Ga., Junk yard Regulation Ordinance §2 (2006).

Section 5 - Required Permit

- 1. A permit shall be required to create, expand or substantially modify any junkyard. No person shall establish, operate or maintain a junkyard without first obtaining a permit.⁶¹
- 2. A permit shall be required for any expansions or substantial modification of new and existing junkyards.⁶²
- 3. No permit is required for junkyards existing at the time of enactment of this ordinance, however existing junkyards are required to register with _____ [office charged with granting permits] within ninety (90) days of enactment of this ordinance.⁶³

Section 6 - Permit Application

1. A permit application for the creation, expansion or modification of a junkyard shall be made to _____ [office designated to receive permit applications].
2. A plan detailing the proposed new junkyard, expansion or modification shall be included with each permit application. This plan shall include:
 - a. Setbacks;
 - b. Location of public rights-of-way;
 - c. All structures within three-hundred (300) feet of the junkyard;
 - d. Driveways;
 - e. Entrances;
 - f. Current and proposed structures;
 - g. Screening;
 - h. Buffers;
 - i. Gross acreage of the site;
 - j. Owner's name and address; and,
 - k. The preparer of the plan's name and address.The _____ [permit review authority] may require additional information regarding the plans depending on site specific concerns such as topography or neighboring properties.⁶⁴
3. All permit applications shall include a \$_____ permit fee.⁶⁵ [Amount adjustable based on the actual cost of reviewing plans.]
4. When a junkyard is sold, the new owner shall notify _____ [permit department] within thirty (30) days of any change in ownership and provide the department with their name and contact information.

Section 7 - Control Provisions

The following criteria shall apply to all new junkyards:

1. Junkyards shall be set back at least five hundred (500) feet from any preexisting single family residential district, multifamily residential district, school, church, public building, public recreation facility, hospital, nursing home or day care facility. On-site residences of the owner or operator are exempted from this provision.⁶⁶
2. Junkyards shall have a minimum setback from the front property line to the fence of twenty (20) feet. There shall be a minimum setback from the side and rear property lines to the fence of fifteen (15) feet.⁶⁷

⁶¹ Polk County, N.C., *supra* note 49 §2-5.

⁶² *Id.*

⁶³ *Id.* §2-6.

⁶⁴ *Id.* §2-5.

⁶⁵ Union County, Ga., *supra* note 64 §4.3.

⁶⁶ Union County, Ga., *supra* note 64 §3.1(c) *see also* Polk County, N.C., *supra* note 49 §3-1(b)(2).

⁶⁷ Union County, Ga., *supra* note 64 §3.1(b) *see also* Polk County, N.C., *supra* note 49 §3-1(b)(1).

3. In compliance with state and federal statute, junkyards shall not be visible from a state or federally funded or maintained thoroughfare at any time of year.⁶⁸
4. Junkyards shall be surrounded by an opaque wood or masonry fence at least seven (7) feet in height.⁶⁹
5. In addition to the fence, junkyards shall be completely surrounded by vegetation that provides a year-round opaque screen that may reasonably be expected to be at least six (6) feet tall within four (4) years of planting. Plants shall be placed at regular intervals so as to provide a continuous hedgerow without gaps or open spaces. The vegetation shall be maintained as a continuous unbroken hedgerow for the entire period the property is used as a junkyard and shall be planted not more than four (4) feet outside of the required fence. Dead or diseased foliage shall be replaced at the next appropriate planting time. Each owner, operator or maintainer of a junkyard shall use good husbandry techniques, such as pruning and fertilizing, to maintain maximum density and foliage.⁷⁰
6. The required fence shall enclose all operations, equipment, junk and inoperable motor vehicles at all times unless the junk, equipment or inoperable motor vehicles are in transport to or from the site.⁷¹
7. All junkyards shall be maintained to protect the public from health and safety nuisances and hazards.⁷² Types of maintenance actions may include upkeep of the vegetative screen, maintenance of the fence so that there are no holes, keeping all junk and operations within the confines of the fence and keeping machinery in good working order.

Section 8 - Existing Junkyards

1. Junkyards existing at the time of enactment of this ordinance shall be grandfathered as prior nonconforming uses so long as the junkyard is registered within ninety (90) days of enactment of this ordinance. There shall be no fee to register an existing junkyard. To register an existing junkyard the owner or operator must provide the following:
 - a. Name and address of the owner and operator;
 - b. Date junkyard was created or founded;
 - c. Location and/or address of the junkyard;
 - d. Size of the junkyard; and,
 - e. A detailed description or list of operations currently taking place on the site.
2. Should a pre-existing junkyard undergo an expansion or substantial modification it shall be subject to the setback and screening requirements provided in Section 7 of this ordinance.

Section 9 - Variances

The _____ [local body that issues variances] may authorize, upon appeal in specific cases, such variance from the terms of this ordinance if it will not be contrary to the public interest. A variance may be granted where, owing to special conditions, a literal interpretation and enforcement of the provisions of this ordinance would, in an individual case, result in unnecessary hardship. A variance may be granted in such individual case of unnecessary hardship upon a finding by the [local body that issues variances] that the following conditions exist:⁷³

1. The size, shape, topography or location of a particular piece of property creates extraordinary and exceptional conditions that are not present for other junkyards governed by this ordinance;⁷⁴

⁶⁸ Polk County, N.C., *supra* note 49 §3-1(b)(3).

⁶⁹ Union County, Ga., *supra* note 64 §3.1(e) *see also* Polk County, N.C., *supra* note 49 §3-2(2)(a).

⁷⁰ Polk County, N.C., *supra* note 49 §3-2(2)(a).

⁷¹ *Id.* §3-2(2)(b).

⁷² *Id.* §3-3(a).

⁷³ Polk County, N.C., *supra* note 49 §2-3(b).

⁷⁴ *Id.* §2-3(b)(1).

2. Granting the variance will not give the applicant any special privileges that are denied to other junkyard owners or operators governed by this ordinance;⁷⁵
3. A literal interpretation of the provisions of this ordinance would deny the junkyard owner or operator of rights commonly enjoyed by other junkyard owners or operators governed by this ordinance;⁷⁶
4. The requested variance will be consistent with the purpose and intent of this ordinance and will not be injurious to the public health, safety or welfare;⁷⁷
5. The special circumstances in question are not the result of action by the applicant or his agent or employee;⁷⁸ and,
6. The variance requested is the minimum variance that will make possible the legal and logical use of the land in question.⁷⁹

In granting the variance the _____ [local board that issues variances] shall make written findings that the requirements of this section have been met. Written notice that the finding has been made shall be delivered to the address provided by the applicant. In granting any variance, the _____ [local board that issues variances] may prescribe appropriate conditions and safeguards to ensure conformity with the purpose and intent of this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.⁸⁰

Section 10 - Enforcement

1. The _____ [local official] shall be the ordinance administrator. The ordinance administrator shall enforce this ordinance and may call upon other agencies as necessary to assist in enforcement of this ordinance. In addition, whenever the administrator receives a written or verbal complaint alleging a violation of this ordinance, the administrator shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.⁸¹
2. The owner, tenant, or occupant of any building or land or part thereof and agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies provided in this ordinance.⁸²
3. If the administrator finds that any provision of this ordinance is being violated, the administrator shall send or give a written notice to the person responsible for such violation indicating the nature of the violation, ordering the action necessary to correct it, and advising the violator of the number of days or months within which the violation shall be corrected. The violator shall be informed of right to appeal to the _____ [local appeals body].⁸³
4. In cases where delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the administrator may seek enforcement without prior written notice by involving any of the penalties or remedies authorized by this ordinance.⁸⁴

⁷⁵ *Id.* §2-3(b)(2).

⁷⁶ *Id.* §2-3(b)(3).

⁷⁷ *Id.* §2-3(b)(4).

⁷⁸ *Id.* §2-3(b)(5).

⁷⁹ *Id.* §2-3(b)(6).

⁸⁰ *Id.* §2-3.

⁸¹ *Id.* §2-1(a).

⁸² *Id.*

⁸³ *Id.* §2-1(b)(1).

⁸⁴ *Id.* §2-1(b)(2).

Section 11 - Penalties for Violations

Penalties for violation of this ordinance shall be as follows:

1. Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established, shall constitute a misdemeanor.⁸⁵
2. Any act constituting a violation of the provisions of this ordinance or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$_____ per violation. If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the County in a civil action in the nature of debt.⁸⁶
3. Each day that any violation continues after notification by the administrator that such violation exists may be considered a separate offense for purposes of the penalties specified in this ordinance.⁸⁷
4. Any junkyard owner found in violation of this ordinance shall, in addition to any fine imposed, be required to bring the junkyard into compliance with all provisions of this ordinance at the owner's expense.⁸⁸
5. Any building permits associated with the property that has a junkyard permit may be revoked by the County, in accordance with the provisions of this ordinance, if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the _____ [local government]. Before such other permits may be revoked, the permit recipient shall be given ten days' written notice of intent to revoke any relevant permit. The notice shall inform the recipient of the alleged reasons for the revocation and of his right to obtain a hearing on the allegations before the _____ [local appeals body]. If any relevant permit is revoked, the administrator shall provide to the permittee a written statement of the reasons for the decision.⁸⁹

Section 12 - General Provisions

1. These rules and regulations shall be in full force from and after _____ [date of enactment].
2. All junkyards shall be subject to inspection by the _____ [local enforcement body] to ensure continued compliance with this chapter and other applicable federal, state and local laws.⁹⁰
3. No provision of this ordinance shall be interpreted to create any power or conflict with federal or state laws which have preemptive effect.⁹¹
4. If any provision of this ordinance or its application is held invalid such finding shall not affect the other provisions of this ordinance.⁹²
5. All laws, ordinances or parts thereof which conflict with this ordinance are hereby repealed.⁹³

Disclaimer of Legal Advice

While this document is intended to assist jurisdictions in regulating junkyards, it not intended to provide a complete discussion of junkyard control. The law changes rapidly, and timely legal advice is essential in drafting ordinances. This publication is provided for general information only and is not a substitute for legal advice. Readers should consult with an attorney familiar with this area of law before taking action based on any information in this document.

85 Polk County, N.C., *supra* note 49 §2-2(1) *see also* Union County, Ga., *supra* note 64 §7.3.

86 Polk County, N.C., *supra* note 49 §2-2(2).

87 *Id.* §2-2(4).

88 *Id.* §2-2(3).

89 *Id.* §2-2(6).

90 Union County, Ga., *supra* note 64 §4.4.

91 *Id.* §10.3.

92 *Id.* §10.1.

93 *Id.* §10.2.

Exhibit
4-C

Chapter 172. JUNKYARDS

- § 172-1. Junkyards prohibited.
- § 172-2. Junkyards as nonconforming uses allowed subject to licensing.
- § 172-3. Definitions.
- § 172-4. Permit required; application; hearing.
- § 172-5. Hours of operation.
- § 172-6. Applications and plot plans.
- § 172-7. Construction and operation standards.
- § 172-8. Criteria for issuance of permit and renewal.
- § 172-9. Suspension and revocation of license; inspection.
- § 172-10. Applications.
- § 172-11. Permit fees; escrow deposit; duration; assignability.
- § 172-12. Insurance.
- § 172-13. Violations and penalties.

[HISTORY: Adopted by the Township Council of the Township of Pohatcong 9-18-2001 by Ord. No. 01-7. Editor's Note: This ordinance repealed former Ch. 172, Junkyards and [Junk Dealers](#), adopted 2-6-1973 as Ch. 47 of the 1973 Code. Amendments noted where applicable.]

GENERAL REFERENCES

- Uniform construction codes — See Ch. **112**.
- Littering — See Ch. **182**.
- Recycling — See Ch. **237**, Art. **I**.
- Abandoned vehicles — See Ch. **269**.
- Zoning — See Ch. **285**.
- Public health nuisances — See Ch. **296**.

SEE OUTLINED
TEXT IN
PARTICULAR

§ 172-1. Junkyards prohibited.

All junkyards as defined in this chapter are prohibited in every zoning district in the Township of Pohatcong.

§ 172-2. Junkyards as nonconforming uses allowed subject to licensing.

- A. Existing junkyards may be continued as a nonconforming use provided that they comply with the provisions of this chapter, and applicable state and federal rules and regulations. Failure to obtain a permit or renew a permit pursuant to this chapter shall be deemed an abandonment of the use of [property](#) as a junkyard.
- B. Any person operating an existing nonconforming junkyard shall submit a [complete](#) application for a permit pursuant to this chapter within 90 days of its effective date.

§ 172-3. Definitions.

For purposes of this chapter, the following definitions are hereby established:

JUNK
.....

Junk

Old or scrap copper, glass, brass, rags, batteries, paper, trash, debris, waste or junked, dismantled or wrecked automobiles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous metals of any type and all other materials commonly or generally known as "junk" in the ordinary meaning of the word.

JUNKYARD

A place where old metal, junk or material of any kind, including, but not by way of excluding, disabled vehicles either held or not held for sale in parts or as junk metal or materials, paper, glass, rags, bags or other old material is collected, bought, sold, stored or dealt in. Any place, establishment or land which is maintained, operated or used for storing, keeping, buying, selling or just leaving junk on said premises or for the maintenance or operation of an automobile graveyard is hereby defined as a junkyard.

PERSON

Includes partnerships and corporations. The masculine gender shall include the feminine, and the single number shall include the plural numbers.

§ 172-4. Permit required; application; hearing.

- A. All persons hereinafter desiring to operate any junkyard within the Township of Pohatcong shall, before commencing such operation or continuing any operation during any calendar year, apply to the Township Council for a permit to conduct such operation. Applications and a checklist for such permits shall be furnished upon request from the Township Clerk. Upon submission by the applicant, and upon determination being made that the application is complete per the checklist and prior to the issuance of any permit, a public hearing shall be conducted upon the application therefor by the Township Council.
- B. The applicant shall be required to notify by certified mail, return receipt requested, all property owners within 200 feet of the property proposed for the junkyard of the time and place of the hearing. Applicant shall obtain a certified list of property owners from the Township's Tax Collector. Proof of mailing of notice at least 10 days prior to the hearing shall be provided by applicant.
- C. The applicant shall publish notice of the public hearing in the Township's official newspaper and provide proof of publication at least 10 days prior to the hearing.

§ 172-5. Hours of operation.

Hours of operation shall be from 8:00 a.m. to 5:00 p.m., Monday through Saturday. There will be no operation on legal holidays. No machinery shall be operated upon the junkyard site prior to or subsequent to the permitted hours of operation. Upon written request of the permit holder and for good cause shown, the Township Council shall have the right to extend the permit holder's hours of operation, provided that the extension is for specified hours and for specific duration of time not to exceed 90 days, and further provided that the extended hours do not adversely impact upon the health, safety and welfare of the citizens of the Township of Pohatcong and is in furtherance of the efficient regulation of junkyard operations within the Township.

§ 172-6. Applications and plot plans.

The plot plan and application shall contain, as a minimum, the following information:

A. Maps and plans submitted in compliance with this chapter shall be 24 inches by 36 inches:

B. The title block shall include the following information:

- (1) The title of drawing.
- (2) The name of the junkyard.
- (3) The name, address, membership or license of the professional person who prepared the drawings.
- (4) The date of the drawing.
- (5) The drawing reference number.
- (6) The scale of the drawing.

C. Drawings shall also include the following:

- (1) A north arrow and reference meridian.
- (2) The date of the original drawing and date and the nature of all subsequent revisions.
- (3) A graphic scale.

D. General plot plan requirements:

- (1) The plot plan shall be drawn at a scale in accordance with the following table:

Area of Site	Scale Not To Be Less Than
40 acres or less	1 inch equals 50 feet
Over 40 acres	1 inch equals 100 feet

- (2) The plan shall include the following data:

- (a) The names and address of the operation and the owner.
- (b) The acreage, Municipal Tax Map lot and block numbers and tax sheet numbers of the lot or lots.
- (c) A key location map showing the site and its relationship to surrounding areas and zone boundaries within a minimum of 1/4 mile.

4-C

- (d) All existing, proposed and minimum required setback dimensions as required by Chapter **285**, Zoning.
- (e) Landscaped and vegetated areas, fencing and tree lines.
- (f) All existing signs and utility poles and their size, type of construction and location.
- (g) The existing principal building or structures and all accessory buildings, structures or equipment.
- (h) The location of all existing buildings, drainage and parking areas, and wells within 200 feet of the lot.
- (i) Existing topography depicted by contours at two-foot intervals based upon New Jersey Geodetic Control Survey datum for the site and areas within 50 feet of the site. Topography shall be no more than four years old for the entire site for the initial application and shall be updated annually for those areas which have been modified or otherwise disturbed.
- (j) An accurate boundary survey prepared and certified by a New Jersey licensed land surveyor. The survey shall be based on a field traverse with an error of closure not less than one part in 10,000.
- (k) The approximate location and size of all existing storm drainage facilities.
- (l) The location of all existing sidewalks, driveways, haul roads, fences, retaining walls, parking space areas and the layouts thereof and all off-street loading areas, together with the dimensions of all the foregoing on the site in question and within 100 feet of said site.
- (m) The estimated average number of automobiles and number and size and type of trucks that will enter and leave the site each day.
- (n) The location, size and nature of all existing and proposed rights-of-way, easements and other encumbrances which may affect the lot or lots in question.
- (o) The location, size and nature of the entire lot or lots in question and any contiguous lots owned by the owner/operator or in which the owner/operator has a direct or indirect interest, the date of acquisition of each tract and the deed book and page in which the acquisition is filed.
- (p) The general nature and extent of site lighting and intended hours of usage.
- (q) The location of sewage disposal and water supply.
- (r) A landscape and planting plan which, as a minimum, shall spot the location of all existing planting to be retained and all plantings to be established and shall contain a schedule, keyed to the plantings shown, calling out the type (common




4-C

name and botanical name), size (height, spread and trunk diameter) at the time of planting and at maturity and quantity of all plantings to be established shown on the plan.

- (s) Copies of all applicable local, state and federal permits that may be required shall be maintained on the site and made available to the Township for inspection, to be resubmitted with renewal applications.
- (t) Each plot plan shall include the location, size, type and detail of proposed improvements to be completed/installed during the period of the permit.
- (u) The location of proposed fire lanes.
- (3) The plans shall be prepared and signed by a professional engineer licensed in New Jersey except for certification by other licensed professionals as required by this chapter or New Jersey law.
- (4) The amount, by weight, of metal recycled by the applicant for the previous calendar year. Metal recycled shall include metal of all types and from all sources which comes into the possession of the applicant and is disposed of by the applicant by sale, or otherwise, in its original or compacted condition.
- (5) A narrative statement, together with all applicable supporting documentation to establish the length of time that said applicant or owner used said premises as a junkyard before the adoption of this chapter, together with a detailed description of all junkyard operations and activities that applicant contends are grandfathered, preexisting nonconforming uses.

§ 172-7. Construction and operation standards.

The following construction and operation standards shall be adhered to in junkyard operations. Daily operations are as follows:

- A. All entrances shall be gated and the gates shall be of the same material as required for fence below, and accessible around the clock for emergency vehicle access. 
- B. It shall be unlawful to stack, pile or place motor vehicles, parts of motor vehicles or any other junk or materials upon such premises in such a manner as to create a place for the harboring or breeding of mice, rats or other vermin or to stack, pile or place junk above the height of the boundary fence surrounding the premises. 
- C. All junkyards shall be completely obstructed from the view of every and all adjoining landowners and from any and every public street. Every junkyard and places where junk is stored shall be enclosed completely on all sides by a fence at least eight feet high and of a type and construction as shall be approved by the Zoning Officer of the Township of Pohatcong. There shall be no advertisement allowed or any description or writing on said fence, except the name of the business, if any, and said writing shall not exceed the area of 

4-C

six square feet. The fencing shall be completed within the term of the initial permit and completion shall be a condition of renewal. The fence shall be constructed of chain link material with privacy slats of material manufactured for the specific purpose of fencing, and whether made of metal, wood or other material, shall effectuate the obstruction of the junkyard from view as set forth hereinabove.

D. All burning is hereby prohibited.



E. No junk or rubbish or salvage of any type shall be maintained outside the enclosure surrounding any junkyard.



F. No permit issued pursuant to the terms of this chapter shall entitle any applicant or anyone else to operate under said permit at, in or on any lot, building, dwelling or location or any part thereof other than that specified in the permit. No permit shall be assignable or transferable to any other person or party whatsoever or to any other lands or premises other than those previously approved as junkyards and existing as such by valid permitting previously. The only transfer allowed shall be a person-to-person transfer, upon application made to the Township Council of the Township of Pohatcong of an existing validly permitted junkyard. The application shall contain the names and addresses of all parties to the transfer applied for, in accordance with all terms of this chapter, and shall be accompanied by a certified check payable to the Township of Pohatcong in the amount of \$750. Any permit permitted to be transferred by the Township Council of the Township of Pohatcong shall expire on the 31st day of December of the year in which the transfer is made. Thereafter, the license may be renewed for a one-year period in accordance with the terms of this chapter.

G. No materials of an explosive nature shall be maintained or demolished on any premises.



H. No materials shall be kept or maintained on any said premises, lands or locations which shall be of such odorous nature as to be offensive to adjoining landowners and property owners or other inhabitants in the area of the permitted premises.



I. The applicant shall maintain sufficient fire extinguishers on the permitted premises at all times and shall also establish fire protection according to standards recommended by the Uniform Fire Safety Code for such premises.




J. All junkyards shall operate in compliance with all relevant county, state and federal environmental regulations.



K. Any new buildings or junkyard operations shall not be less than 100 feet to any property line or roadway. Existing buildings or operations, closer than 100 feet at the time of initial permitting under this chapter, shall be exempt.

L. Screening shall be established and planted as follows. Along roadways: in areas that are not screened by existing trees at the time of the initial application, evergreen screening spaced at 10 feet center to center with plants a minimum of six feet high at the time of planting.



- M. All provisions of the New Jersey Air Pollution Control Code, *Editor's Note: See N.J.S.A. 26:2C-1 et seq.* and New Jersey Solid Waste Management Act, *Editor's Note: See N.J.S.A. 13:1E-1 et seq.* as amended and augmented by regulations, shall be complied with.
- N. Noise emanating from any junkyard shall comply with the standards and requirements established by the New Jersey Department of Environmental Protection pursuant to the Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq. 

§ 172-8. Criteria for issuance of permit and renewal.

- A. Upon determining that the application complies with the standards and requirements of this chapter, and after public hearing, the Township Council shall grant the application for a permit. The initial permit shall expire December 31st of the year following the year of issuance and thereafter must be renewed annually. Renewal applications shall be acted upon by the Township Council; however, a public hearing will only be conducted pursuant to Subsection B below.
- B. The Township of Pohatcong, by issuing said permit, reserves unto itself the right to refuse the renewal of any existing permit upon a finding by the Zoning Officer, the Township Engineer, or any county, state or federal authority, that the operation of said junkyard at the premises used for said purpose is detrimental to the health, safety and general welfare of the public. The granting of a permit under this chapter shall not be construed for any purpose as permission of the permittee to maintain any condition which would constitute a public or private nuisance or maintain any condition which would violate the regulations propounded in this chapter. Should the Township determine on the hearing of the application for renewal of the existing permit that there is probable cause for refusing to renew said license, the Township Clerk is to immediately notify the applicant that the Township of Pohatcong will hold a hearing on whether or not said license should be renewed. Such notification should inform the applicant of the time and date and the place of the hearing which hearing shall be held within no less than 10 nor more than 20 days from the date of service of said notice. The applicant shall then have an opportunity to be heard on the issue of whether or not said license should be renewed. The Township Clerk shall also notify all property owners within 200 feet of the subject junkyard of the time and send by certified mail, return receipt requested.
- C. The Township Council may authorize a temporary permit for such permittee until the hearing has been completed and a determination made so that the business of a permittee may not be suspended or interfered with unreasonably by filing of any written objections.

§ 172-9. Suspension and revocation of license; inspection.

- A. The Township Council may revoke any permit granted at any time during the period for which the permit was issued on the Township Council's own action or upon a recommendation of the Zoning Officer or on the objection of any taxpayer or inhabitant of the Township of Pohatcong upon any violation of the provisions of this chapter, after a

hearing provided to the permittee following complaint in writing and at least 10 days' notice to the permittee setting forth the grounds of complaint.

- B. The permitted premises shall be open to inspection by the Zoning Officer and Township Engineer of the Township of Pohatcong, the Warren County Board of Health and all other governmental agencies with jurisdiction at any reasonable time of day or night.
- C. In the event that any permit shall be revoked for good cause shown or terminated voluntarily by the permittee, there shall be no refund of any portion of the license fee.

§ 172-10. Applications.

- A. Application forms shall be obtained from the Township Clerk in a form prescribed by the Township Council.
- B. Nine copies of applications shall be filed with the Township Engineer, who shall determine whether the application is complete based upon whether all items set forth on the application checklist have been submitted. An applicant for a permit may apply to the Township Council for a waiver from any checklist requirement. In making such determination, the Township Engineer shall be guided by and apply the standards embodied under § 172-6 hereof. Upon determining that the application is complete, the Township Engineer shall notify the Township Council that a public hearing date can be established. If the application is incomplete, he shall notify the owner of the reasons for determination. The determination shall, in general, be made within 60 days of the submittal. Applicant shall submit nine copies of the application, checklist and supporting documentation.

§ 172-11. Permit fees; escrow deposit; duration; assignability.

- A. An application fee of \$750 shall be payable to the Township upon submission of the application. Additionally, the applicant shall pay a professional review and administrative escrow fee in the amount of \$5,000 to reimburse the Township for professional and administrative services rendered in review of an application for a permit, that, when the administrative escrow fee falls below the amount of \$500, same shall be replenished to the amount of \$1,500 prior to the continuation of administration of the application and prior to the issuance of any permit. Upon expiration of a permit an additional application fee shall be payable to the Township, said fee to be submitted with each renewal application.
- B. All professional charges for review of an application shall be reasonable and necessary, given the status and progress of the application. Each payment charged to the escrow deposit for review of applications shall be pursuant to a voucher from the professional, which voucher shall identify the personnel performing the service, and for each date the service is performed, the hours spent, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer of the municipality on a monthly basis in accordance with schedules and procedures established by the Chief

4-C

Financial Officer of the municipality, and shall send an information copy simultaneously to the applicant. Whenever the applicant disputes the charges made by the professional for service rendered in reviewing the application, an applicant shall notify in writing the Township Council and the professional. The Township Council, or its designee, shall within a reasonable time period attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to a court of competent jurisdiction.

§ 172-12. Insurance.

Any person, to whom a permit shall be issued shall obtain and deliver to the Township evidence that the permit holder has in effect a public [liability insurance](#) policy with limits of liability of not less than \$2,000,000 combined single limit for any one accident for bodily injury and property damage.

§ 172-13. Violations and penalties.

A. Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to any combination of the following:

- (1) A fine of not less than \$25 nor more than \$1,000.
- (2) A term of imprisonment not to exceed 90 days.
- (3) A term of community service not to exceed 90 days.

B. Each and every day that such violation continues shall be considered a separate and distinct violation and shall be subject to the foregoing penalties. In addition, in the event of any material violation of the provisions of this chapter, which the permit holder is not seeking diligently to cure after receiving written notice thereof from the Township Council, the Township Council shall have the right to revoke or rescind the permit until such time as the material violation is cured. Prior to revocation or rescission of the permit, the Township Council shall afford the permittee an opportunity to be heard upon no less than 10 days' prior notice as to the scheduled hearing date, which notice shall set forth the time and place of the hearing, together with a description of the material violation(s) alleged to have been committed by the permittee.

Powered by

Mobile View



SECTION 23520. DISPOSAL

Disposal uses shall meet the following standards:

- A. **Location.** In addition to additional dimensional standards required by these Land Development Regulations, the refuse of a disposal site shall be at least 300 feet from a property line shared with an existing residential development or use.
- B. **Fencing.** The perimeter of a disposal site shall be fenced with fencing that complies with Section 49220, Wildlife Friendly Fencing.

SECTION 23530. JUNKYARDS

Junk Yards shall meet the following standards:

- A. **Location.** In addition to additional dimensional standards required by these Land Development Regulations, the refuse of a junkyard shall be at least 300 feet from a property line shared with an existing residential development or use.
- B. **Fencing.** The perimeter of a junkyard shall be fenced with fencing that complies with Section 49220, Wildlife Friendly Fencing.
- C. **Visual Screening.** A junkyard shall be screened or located so as to not be seen from County or State roads or a road serving a subdivision.

SECTION 23600. HOME OCCUPATION

A home occupation shall meet the following standards:

- A. **Conducted by Person within Dwelling.** A home occupation shall be operated by a person residing within the dwelling.
- B. **Uses Permitted.** Uses permitted are professional services such as an accountant, physician, real estate agent; art studio, handcraft studio, music studio, or similar studio uses; a tailor; repair of furniture and small appliances; tutoring or classes for no more than two (2) students at one time; and counseling primarily for individual persons.
- C. **Employment.** No one residing off-premises may be employed on the premises of a home occupation.
- D. **Parking.** All parking shall be provided on-site, and shall be located to the rear of the structure or in another location that is visually unobtrusive.
- E. **Area Devoted to Home Occupation.** The area devoted to the home occupation including the area in an accessory structure shall not exceed twenty-five (25) percent of the habitable floor area of the principal dwelling unit.
- F. **Display.** There shall be no window display or other public display of material or merchandise connected with the home occupation.
- G. **Signage.** Only one (1) wall sign not to exceed two (2) square feet in area and attached to the house shall be permitted.

SECTION 23700. HOME BUSINESS

Home businesses shall meet the following standards:

ARTICLE II: ZONING DISTRICT REGULATIONS

BUSINESS
PARK

Public

TABLE 2200 USE SCHEDULE (AMD 08-0002 and AMD 09-0001)	ZONING DISTRICT											CONDITIONS	
	Urban		Suburban	Rural	Conservation		Special Purpose						
	AR	AC	S	R	BC ₁	NC	OP	BP	MH P	P/S P	P		WC
Aeronautical													
Airports								C					
Landing Strips				C								Sec. 23900	
Heliports		C		C	C			C		C		Sec. 231000	
Balloon Operations				C								Sec. 231100	
Industrial													
Light Industry		C			C			Y		C		C	
Heavy Industry								C		C			
Gravel Processing	See Section 231200, <u>Gravel Processing and Extraction</u>												
Rock/Gravel Extraction	See Section 231200, <u>Gravel Processing and Extraction</u>												
Disposal								C		C			
Junkyards								C		C			
Temporary Uses													
Christmas Tree Sales	Y	Y		Y	Y			Y		Y	Y	Y	Sec. 231300
Contractor's Office	Y	Y	Y	Y	Y		Y	Y	Y	Y	C	Y	Sec. 231300
Special Event	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Sec. 231300
Real Estate Sales Office	Y	Y	Y	Y	Y			Y	Y			Y	Sec. 231300
Shelter	Y	Y	Y	Y	Y	Y		Y	Y			Y	Sec. 231300
Farm Stand		Y		Y						Y		Y	Sec. 231300
Gravel Extraction & Processing	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Sec. 231300
Y=Permitted by Right, C=Conditional Use, S=Special Use													
I=Any proposed change of use or expansion, of more than 3,450 square feet of gross floor area in the BC District, requires a Conditional Use Permit. Expansions of an existing permitted use meeting the definition of minor development, pursuant to Section 51200, <u>Residential and Nonresidential Development Plans</u> , shall be treated as a minor development plan, and do not require a conditional use permit. See Section 2530, <u>Standards in the Business Conservation (BC) District</u> .													

SECTION 2240. DETERMINATION OF SIMILAR USES

If a proposed use is not listed in Table 2200, Use Schedule, it may be considered a permitted use if the Planning Director determines the proposed use is sufficiently similar to one of the uses listed in Table 2200, Use Schedule. The Planning Director's determination shall be made pursuant to the standards of Section 5130, Interpretations.

If a similar use determination is made in the affirmative, the proposed use shall be an authorized use with the same permissions and restrictions as the use to which it was determined to be similar. A similar use determination may be appealed to and reversed by the Board of County Commissioners pursuant to Section

- (3) **Level three.** Any production of Portland cement or similar products shall constitute Level Three gravel processing.
- d. **Rock/gravel extraction.** Any rock quarrying, gravel removal, and stockpiling, in concert or by itself, shall be considered rock/gravel extraction. Gravel processing and extraction shall be subject to the standards set forth in Section, 231200, Gravel Processing and Extraction.
- e. **Disposal.** Disposal includes sanitary landfills; sludge disposal or storage; resource recovery or recycling facilities; trash compaction; and transfer stations. Disposal uses shall not include hazardous waste disposal. Any use falling under the disposal category shall be subject to the standards set forth in Section 23520, Disposal.
- f. **Junkyard.** Junkyard means any land or structure used for salvaging operations, including, but not limited to, the storage and sale of waste paper, rags, scrap metal, and discarded materials and the collection, dismantlement, storage, and salvage of two (2) or more inoperative vehicles. This includes the aggregate storage of manmade equipment, machinery, scrap, or other used parts having a total cubic volume of seven hundred (700) or more cubic feet. Junkyards are subject to the standards set forth in Section 23530, Junkyards.
7. **Aeronautical uses.**
- a. **Airport.** Airport means establishments primarily engaged in furnishing air transportation over regular routes and on regular schedules for passengers and air-freight; and, the servicing, repairing, maintaining, and storing of aircraft.
- b. **Landing strip.** Landing strip means establishments primarily engaged in furnishing nonscheduled air transportation. Landing strips shall be subject to the standards set forth in Section 23900, Landing Strips.
- c. **Heliport.** Heliport means an area used or to be used for landing or takeoff of helicopters or other aircraft capable of hovering, and including any or all of the area or buildings which are necessary to accomplish this function, including re-fueling; heliport also includes helicopter pads. Heliports shall be subject to the standards set forth in Section 231000, Heliport.
- d. **Balloon operations.** Balloon operations means a use providing for the operation of hot air balloon flights. Balloon operations require securing both launching and landing rights for balloons. Balloon operations shall be subject to the standards set forth in Section 231100, Balloon Operations.
- C. **Home Uses.** Home uses are businesses that are generally permitted only in nonresidential zoning districts, but which may be permissible in residential districts in association with a predominately residential use, at a residential scale. Home uses give local small businesses a place to start; once these small businesses grow beyond a certain size they can no longer be characterized as home uses. This subsection lists the types of home uses permitted in Table 2200, Use Schedule, and sets forth the definitions for home uses, which specify the size, number of employees, and other parameters.
1. **Home occupation.** Home occupation means any use conducted entirely within a dwelling or an accessory structure on the property that is carried on by the inhabitants of the dwelling, which use is clearly incidental and secondary to the residential use of the dwelling and does not change the character of the residential use. Any uses falling under the home occupation category shall be subject to the standards set forth in Section 23600, Home Occupation.

Two Junkyards DEFINITIONS

Exhibit 5

HEAVY EQUIPMENT
SALES LOT:

The sale, lease or rental of trucks, tractors, construction equipment, trailers, agricultural implements, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships and construction equipment dealerships.

HOME OCCUPATION:

An activity conducted in a dwelling unit or accessory building in a residential zone (A-20, A-2.5, R-1, R-2) as an economic enterprise or for financial gain by a member of the household residing therein that is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character of the dwelling or the accessory building or change the residential character of the neighborhood. See Chapter 4, Section 8-6-4 for Home Occupation requirements and standards.

HOSPITAL:

An institution devoted primarily to the maintenance and operation of facilities for the medical or surgical care of patients, including a hospice, but distinguished from a nursing home by offering primarily short-term rather than long-term care.

HOTEL/MOTEL:

Any building or portion thereof containing guest rooms used, designed to be used, let or hired out for occupancy by persons on more or less a temporary basis.

IRRIGATION CANAL/
PIPELINE:

A pipeline or an excavation dug or placed on grade for carrying water for the purpose of irrigation.

→ JUNKYARD-
COMMERCIAL

includes salvage yards or vehicle graveyards, and any place of outdoor storage or deposit that is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal-processing facility. It does not mean a repair garage or impound yard where wrecked, ticketed, abandoned, or disabled motor vehicles are stored for less than 90 days. The term does not include a regulated private garbage dump or a sanitary landfill that is in compliance with any applicable state regulation.

→ JUNKYARD-
NON-CONFORMING

*Any place of outdoor storage or deposit which presently is, or has been previously developed as a location used for the storing or keeping of junk. These locations are on properties not zoned for commercial or manufacturing uses and no County land use permit has ever been issued in connection with the junk storage. The junk materials may or may not have been the subject of commercial activity. In addition to miscellaneous junk materials, a small scale, non-conforming junkyard may have storage of ***four** or more junk motor vehicles that are visible from any portion of a public highway, private subdivision road, or abutting residential structure..*

KENNEL/BOARDING/

The premises where breeding, buying, selling, sheltering, daily care or

Proposed REVISIONS TABLE 1 LAND USE MATRIX

Exhibit B

Title 8, Section 8-4-1

Table 1

Land Use Matrix

Zoning Classification							
Permitted by Right							P
Permitted with Conditions							PC
Conditional Use							CU
A-20	A-2.5	R-1	R-2	C-1	C-2	C-3	M-1

Manufacturing

Aviation Field, Airport/Heliport	CU	CU					CU	CU
Aviation Repair Facility							CU	CU
Brewery					CU	CU	CU	CU
Building Trades Subcontractor	PC	CU					CU	PC
Cabinet Shop							CU	PC
Clothing Manufacture								PC
Concrete Batch Plant/Rock Crushing	CU	CU						CU
Construction/General Contractor	PC	CU					CU	PC
Crematory								CU
Fabricated Metal Products							CU	CU
Food Processing Plant							CU	CU
Fuel Storage, Commercial or Industrial							CU	CU
Furniture/Fixtures manufacture								PC
Junkyard-Commercial								CUP
Junkyard-Non-Conforming								
Landfill/Gravel Pit Reclamation	CU	CU						CU
Landscaping Contractor Business	PC	CU					CU	PC
Lumber Yard						CU	CU	PC
Manufacturing , Industrial								PC
Manufacturing, Light							CU	PC
Mining	CU	CU						CU
Printing or Publishing						CU	CU	CU
Recycling Drop-Off	CU	CU				CU		
Research Facility						CU	CU	CU
Salvage Yard	CU							CU
Sheet Metal Fabrication								PC
Storage Facility							CU	PC
Storage Yard	PC				PC	PC	PC	PC
Transfer Station	CU							CU
Truck Stop							CU	CU
Upholstery or Furniture Repair						CU	CU	P
Vehicle Body Shop								PC
Vehicle Storage								PC
Warehouse and Distribution							CU	PC
Welding/Machine Shop							CU	PC

NEW



Proposed



PLANNING STAFF ANALYSIS OF “STORAGE YARD” ZONING CLASSIFICATIONS IN EACH ZONING DISTRICT

STORAGE YARD. The long-term outside storage of certain materials or equipment in the same location for a time period of longer than nine months. Items used in a bona fide agricultural operation are excluded from this definition. Materials stored in storage yard often include, but are not limited to, the following: 1) useable and/or inoperable equipment or materials that is not directly associated with the upkeep of the property or residence; or 2) merchandise; or 3) two or more unlicensed highway vehicles; or 4) any combination of two or more inoperable off-road or over snow vehicles.

What are the recommended zoning classifications for the “Storage Yard” use in each and all of the county zoning districts?

Storage yards in C-1, C-2, C-3 Districts = Permitted with Conditions

Staff Comment: The commercially zoned areas in the county are very limited in size and all are located near Highway 33. Some outdoor storage (versus outdoor display) is common in commercial zones. The revised definition of “storage yard” no longer includes references to “junk” material, so the types of materials should not be as visually and environmentally impactful. Given the PC with Conditions standards and requirements, a storage yard may be acceptable when properly screened.

Storage Yard in A-2.5, R-1, R-2, = Not permitted

Staff Comment: The reasons for not permitting a storage yard, as defined, in these residential districts fall into at least four categories.

- 1) Neighborhood visual and property value impacts
- 2) Health and safety concerns
- 3) Pollution/ environmental contamination concerns
- 4) Lot size: lots in these residential areas are often in the 2.5 to 5 acre range and this lot size often does not provide a sufficient buffer between properties.

Neighborhood Considerations: The A2.5 District is quite extensive throughout the County. Complaints about unsightly piles of materials and “junk” most often occur where neighbors in close proximity object to a nearby owner’s collection of materials. Some neighbors object because they claim it is lowering their property value or impairing a sale of a property because the accumulated materials present a poor impression to prospective buyers. However, it is not clear where the line can be drawn when a property owner simply fills their lot with a variety of personal possessions. Sometimes, however, the materials are clearly leftover contractor building supplies, inoperable vehicles, used tires, or household trash.

Health and Safety: The long-term storage of some materials may contribute to health issues such as West Nile Disease from stagnant water in tires, broken glass, rodent infestations, and toxic substances. Some of these items, such as refrigerators, may be found by neighborhood children.

Pollution: Non-operable leaking vehicles, metal drums of waste oil, household and farm chemicals, fertilizers, and pesticides are among the substances that are sometimes abandoned and left to potentially pollute the environment.

Lot Size: Residential properties clearly can store a large variety of materials on the property. However, the storage of a significant amount of non-residential type materials on the smaller residential lots can cross a line where the storage has become excessive for a given residential location. Part of the assessment of a given situation would involve looking at the size of the parcel, the proximity of neighbors, the screening that is possible, and the possible environmental risks of the materials being stored. Such considerations may involve whether the material could 1) reasonably be characterized as discarded junk, or 2) the materials never served a functional use on the property or 3) was not the residents' personal possessions, or 4) the material was, or is, part of a business operation.

Storage yard in M-1 and A-20 = Permitted with Conditions

Given the right set of conditions, the long-term storage of miscellaneous materials on a property may be acceptable. Well screened areas of large-acreage properties (A-20 District) might not raise the same concerns that would occur on small lots with homes in close proximity.

The storage of some materials might be acceptable. However the storage of other type materials may not be acceptable because of the risk of water contamination, fumes, odors, radiation, fugitive dust, or unsightliness to nearby property owners.

The conditions of approval for a storage yard that would be administratively approved should include all the considerations enumerated above. See the attached Permitted with Conditions for a storage yard use in the M-1 and A-20 districts.

PLANNING STAFF ANALYSIS OF "COMMERCAIL JUNKYARD" ZONING CLASSIFICATIONS IN EACH ZONING DISTRICT

*JUNKYARD-COMMERCIAL includes salvage yards or vehicle graveyards, and any place of outdoor storage or deposit that is maintained, operated or used in **connection with a business** for storing, keeping, processing, buying or selling junk or as a scrap metal-processing facility. It does not mean a repair garage or impound yard where wrecked, ticketed, abandoned, or disabled motor vehicles are stored for less than 90 days. The term does not include a regulated private garbage dump or a sanitary landfill that is in compliance with any applicable state regulation.*

What are the recommended zoning classifications for the "Junkyard Commercial" use in each and all of the county zoning districts?

Junkyard Commercials in C-1, C-2, C-3 Districts = Not Permitted

Staff Comment: The commercially zoned areas in the county are not appropriate and too expensive anyway to provide space for junkyards.

Junkyard Commercial in A-2.5, R-1, R-2, = Not permitted

Staff Comment: The reasons for not permitting a Junkyard- Commercial, as defined, in these residential districts fall into at least four categories.

- 1) Neighborhood visual and property value impacts
- 2) Health and safety concerns
- 3) Pollution/ environmental contamination concerns
- 4) Lot size: lots in these residential areas are often in the 2.5 to 5 acre range and this lot size often does not provide a sufficient buffer between properties.

Junkyard Commercial in A-20 Not permitted

Staff Comment: There are some existing commercial junkyards in the A-20 District. It is not the intent of this amendment to allow new junkyards to be permitted in the more rural or outlying areas of the County. Junk materials should be taken to the landfill for permanent disposal. Other materials not considered junk can be stored without the need for permits if the materials or equipment are related to onsite agricultural work. Other non-junk materials may be stored. Occasionally, the amount or type of non-junk materials may accumulate to the point of being classified as a storage yard, in that case, a permit may be needed.

Junkyard-Commercial in M-1 requires a CUP, Conditional Use Permit

Given the right set of conditions, the long-term storage or processing and sale of miscellaneous junk materials on an industrial property may be acceptable. Salvage Yards are possible in M-1 and A-20, for example. Not all M-1 properties are suitable and not all types of junk may be allowed. Limitations on the acreage and height of piles, and specifications on the type of screening would be considered in a CUP public review of a new commercial junkyard application. Certainly a well screened area would be needed. The storage of some junk materials (scrap metal) might be acceptable while the storage of other type materials may not be acceptable because of the risk of water contamination, fumes, odors, radiation, fugitive dust, or unsightliness to nearby property owners.

Storage Yard To Permitted with Conditions

Exhibit 8

Table 8-6-2 Standard PC Conditions. A use in a listed zone district below shall comply with all conditions checked by an X for that use. --continued--	Buffer	Screening	Lighting	Parking	Hours of Operation	Signage	Outside Storage	Building Height	Technical Studies	Additional Inspections	Additional Comments
Manufacturing											
Building Trades Subcontractor (A-20, M-1)		X	X	X		X	X				
Cabinet Shop (M-1)							X				X
Clothing Manufacture (M-1)				X	X	X					
Construction/General Contractor (A-20, M-1)	X	X	X	X	X		X			X	
Furniture/Fixtures Manufacture (M-1)	X	X	X	X	X	X	X			X	
Landscaping Contractor Business (A-20, M-1)		X	X	X	X	X	X				
Lumber Yard (M-1)	X	X	X	X	X	X	X				
Manufacturing, Industrial (M-1)	X	X	X	X	X	X	X				
Manufacturing, Light (M-1)	X	X	X	X	X	X	X				
Sheet Metal Fabrication (M-1)		X			X		X			X	
Storage Facility (M-1)	X		X								
Storage Yard (A-20, C-1, C-2, C-3, M-1)	X	X					X				
Vehicle Body Shop (M-1)	X	X	X	X	X	X	X				
Vehicle Storage (M-1)	X	X	X	X	X	X	X				
Warehouse and Distribution (M-1)					X		X		X		X
Welding / Machine Shop (M-1)					X		X				X
Wood Products (M-1)	X	X	X	X	X	X	X			X	
Public/ Quasi-Public											
Cemetery (A-2.5)	X	X	X	X	X	X	X	X		X	
Emergency Service Station (A-20, A-2.5)		X	X			X		X			
Playground (A-20, A-2.5, R-1, R-2, C-1, C-2, C-3)			X	X	X	X					
Utility Building and Services (A-20, A-2.5)		X	X	X			X	X		X	
Water Supply or Treatment Facility (A-20, A-2.5)	X	X					X	X			

PLANNING & ZONING COMMISSION PUBLIC HEARING 2-12- 2013

8-6-2-B

PERMITTED WITH CONDITIONS-RESTRICTIONS

6. Storage Yard (A-20, C-1, C-2, C-3, M-1)

- a. Where the actual or proposed storage of materials meets the technical definition of a storage yard, as determined in writing by the Planning Administrator, all storage of machinery, equipment, scrap material, or other items shall be reasonably screened year round from public roads, including subdivision roads, and from abutting residential structures. The screening shall also be of sufficient height to hide the storage materials. Depending on the type and amount of materials being stored, and the proximity to nearby residences, the Planning Administrator may require that the screening standards in Chapter 12 of Title 8 be applied to a given storage yard.
- b. In the A-20 and A2.5 Districts only, storage yards not readily visible from any road or residential lot need not provide the screening required in “a” above.
- c. The types of materials being stored are subject to review and inspection to determine if there are risks they might cause ground water contamination, fugitive dust, odors, fumes, or pose a fire hazard. Consultation and approval by the Fire District and/ or Idaho Department of Environmental Quality may be a condition of issuance of a permit for a storage yard.
- d. No storage of uncovered items are permitted that might reasonably be blown away by the wind.
- e. The square footage of area that the storage yard may occupy is subject to restrictions based on the site-specific characteristics of the location, the screening and proximity to residential lots.

PLANNING STAFF ANALYSIS OF “NON-CONFORMING JUNKYARD” ZONING CLASSIFICATIONS IN EACH ZONING DISTRICT

*JUNKYARD-NON-CONFORMING -Any place of outdoor storage or deposit which presently is, or has been previously developed as a location used for the storing or keeping of junk. These locations are on properties not zoned for commercial or manufacturing uses and no County land use permit has ever been issued in connection with the junk storage. [The junk materials may or may not have been the subject of commercial activity. In addition to miscellaneous junk materials, a small scale, non-conforming junkyard may have storage of ***four** or more junk motor vehicles that are visible from any portion of a public highway, private subdivision road, or abutting residential structure.]*

What are the recommended zoning classifications for the “Junkyard –Non-Conforming” use in each and all of the county zoning districts?

Junkyard -Non-Conformings in C-1, C-2, C-3 Districts = Not Permitted

Staff Comment: The commercially zoned areas in the county are not appropriate to provide space for junkyards. There are very few acres actually zoned for commercial uses outside the cities and a few long-established roadside businesses.

Junkyard -Non-Conforming in A-2.5, R-1, R-2, = Not Permitted

Staff Comment: The reasons for not permitting a Commercial Junkyard, as defined, in these residential districts fall into at least four categories.

- 1) Neighborhood visual and property value impacts
- 2) Health and safety concerns
- 3) Pollution/ environmental contamination concerns
- 4) Lot size: lots in these residential areas are often in the 2.5 to 5 acre range and this lot size often does not provide a sufficient buffer between properties.

Junkyard -Non-Conforming in A-20 Not Permitted

Staff Comment: There are many existing junkyards that fit the definition of a non-conforming junkyard in the A-20 District. It is not the intent of this amendment, however, to allow new junkyards to be permitted in the more rural or outlying areas of the County. Junk materials should be taken to the landfill for permanent disposal. Other materials not considered junk can be stored without the need for permits if the materials or equipment are related to onsite agricultural work. Other non-junk materials may be stored. Occasionally, the amount or type of non-junk materials may accumulate to the point of being classified as a storage yard, in that case, a permit may be needed.

Junkyard-Commercial in M-1 Conditional Use Permit

Staff Comment: Not all the industrially zoned areas in the county are appropriate to provide space for any junkyards. There may be visibility issues and problems with compatibility at some of the M-1 zoned properties, so an individual, site-specific analysis should be required.